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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,408	07/26/2001	Lionel Cassin	15235.007	4274

28381 7590 10/19/2006

ARNOLD & PORTER LLP  
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555 TWELFTH STREET, N.W.  
WASHINGTON, DC 20004-1206

EXAMINER
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TRAN, HAI V

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary  
for Applications  
Under Accelerated Examination**

Application No.

09/912,408

Applicant(s)

CASSIN ET AL.

Examiner

Hai Tran

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Since this application has been granted special status under the accelerated examination program,**  
**NO extensions of time under 37 CFR 1.136(a) will be permitted and a SHORTENED STATUTORY PERIOD FOR**  
**REPLY IS SET TO EXPIRE:**

**ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER,**  
FROM THE MAILING DATE OF THIS COMMUNICATION – if this is a non-final action or a *Quayle* action.  
(Examiner: For **FINAL** actions, please use PTOL-326.)

The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. Any reply must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the reply is not filed electronically via EFS-Web, the final disposition of the application may occur later than twelve months from the filing of the application.

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.  
2) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 3) ☒ Claim(s) 1-150 is/are pending in the application.  
3a) Of the above claim(s) 1-142 is/are withdrawn from consideration.  
4) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
5) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
6) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
7) ☒ Claim(s) 143-150 are subject to restriction and/or election requirement.

**Application Papers**

- 8) ☐ The specification is objected to by the Examiner.  
9) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the Election/Restrictions of species, as illustrated in Fig. 1-10, in the reply filed on 08/01/2006 is acknowledged. However, the traversal is on the ground(s) that "No serious burden is created for the Examiner by running a simultaneous computerized search of the subject matter identified, for example, in Figs. 1 and 2. A single search of the subject matter of Fig. 1, for example, would automatically yield results of the subject matter of Fig. 2 without any undue burden on the Examiner." is not found persuasive because a single search of Fig. 1 (a system for implementing a media content delivery and playback scheme) does not yield results of the components of a software module of Fig. 2 and vice versa. As such, the Examiner maintains the restriction/election of the previous election of species.

It is acknowledged that Applicant elected specie (Fig.1) with claims 143-150 readable thereon. It's noted that Fig. 1 has two alternative flowcharts (Fig. 4 and Fig. 5) associated with. These two flowcharts are related to two distinct species associated with Fig. 1; therefore, it's unclear which flowchart applicant elects with Fig. 1.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, either Fig. 4 or Fig. 5 associated with Fig. 1, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is

allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht  
10/13/2006



**HAI TRAN**  
**PRIMARY EXAMINER**